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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,198	01/20/2004	Holger Schanz	4621	2502
21553	7590	05/17/2006		
FASSE PATENT ATTORNEYS, P.A. P.O. BOX 726 HAMPDEN, ME 04444-0726			EXAMINER AKANBI, ISIAKA O	
			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PD

<b>Office Action Summary</b>	Application No. 10/762,198	Applicant(s) SCHANZ ET AL.	
	Examiner Isiaka O. Akanbi	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>18 January 2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement file 12 November 2004 and 18 January 2005 has been entered and reference considered by the examiner.

### ***Drawings***

The examiner approves the drawings filed 20 January 2004.

### ***Double Patenting***

Claim 1 and 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,937,375 in view of the examiner Official Notice.

As to claim 1, claim 1 of U.S. Patent No. 6,937,375 discloses the claimed invention except for is silent regarding to a receiving part adapted to receive and detect a reflected beam arising from a reflection of the emitted beam from the scene. The examiner wishes to take Official Notice of the fact that providing a receiving part adapted to receive and detect a reflected beam arising from a reflection of the emitted beam from the scene would have been well known. It would have been obvious to one having ordinary skill in the art at the time of invention to provide a receiving part adapted to receive and detect a reflected beam arising from a reflection of the emitted beam from the scene for the purpose of detecting and executing a scanning movement synchronous to that of the transmitted light beam. Additionally, it would have been obvious to one having ordinary skill in the art at the time of invention to provide a receiving part adapted to receive and detect a reflected beam arising from a reflection of the emitted beam from the scene for the purpose of receiving the radar signal such as refer to in claim 6 of U.S. Patent No. 6,937,375.

As to claim 16, U.S. Patent No. 6,937,375 claim 1 discloses a method of optically scanning a scene comprising of the following steps:

a) generating and emitting (11) an emitted beam of light, b) rotating a first prism (10) element bounded by plural side surfaces about a first rotation axis and c) deflecting said emitted

beam onto said scene using said first prism element, wherein said deflecting comprises penetrating said emitted beam into said first prism element and internally reflecting said emitted beam in said first prism element by a total reflection of said emitted beam from a respective one of said side surfaces, wherein said rotating of said first prism element during said deflecting causes said emitted beam to be moved over said scene (col. 4, line 19-32).

### ***Allowable Subject Matter***

Claims 1-24 would be allowable if the double patenting rejection as set forth in this Office action is overcome.

As to claims 1 and 15, the prior art of record, taken alone or in combination, fails to disclose or render obvious a first prism element that is bounded by plural side surfaces, and that is rotatable about a first rotation axis, and that is positioned in a beam path of the emitted beam emitted by the optical radiation source so that the emitted beam penetrates into said first prism element and is deflected by an internal total reflection of the emitted beam from a respective one of said side surfaces of said first prism element dependent on a rotational position of said first prism element. Claims 1-14 are allowable by virtue of their dependency on claim 1.

As to claim 16, the prior art of record, taken alone or in combination, fails to disclose or render obvious rotating a first prism element bounded by plural side surfaces about a first rotation axis and deflecting said emitted beam onto said scene using said first prism element, wherein said deflecting comprises penetrating said emitted beam into said first prism element and internally reflecting said emitted beam in said first prism element by a total reflection of said emitted beam from a respective one of said side surfaces, wherein said rotating of said first prism element during said deflecting causes said emitted beam to be moved over said scene. Claims 17-24 are allowable by virtue of their dependency on claim 16.

### **Additional Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references listed in the attached form PTO-892 teach of other prior art apparatus/method for optically scanning a scene.

**Conclusion**  
**Official Notice**

Several facts have been relied upon from the personal knowledge of the examiner about which the examiner took Official Notice. Applicant must seasonably challenge well known statements and statements based on personal knowledge. In re Selmi, 156 F.2d 96, 70 USPQ 197 (CCPA 1946); In re Fischer, 125 F.2d 725, 52 USPQ 473 (CCPA 1942). See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice). If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant is charged with rebutting the well-known statement in the next reply after the Office action in which the well-known statement was made. See MPEP 2144.03, paragraphs 4 and 6.

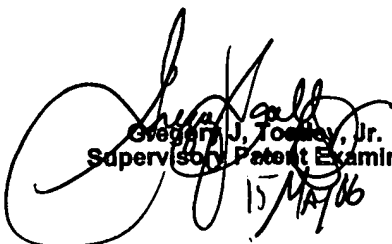
**Fax/Telephone Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isiaka Akanbi whose telephone number is (571) 272-8658. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley Jr. can be reached on (571) 272-2059. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isiaka Akanbi  
May 8, 2006

  
Gregory J. Toatley, Jr.  
Supervisor Patent Examiner  
15 May 06